



# County of Fresno

## DEPARTMENT OF AGRICULTURE

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### **Fresno County Enforcement Work Plan 2006/2007**

#### **RESOURCES**

In FY 2004/2005 Fresno County Department of Agriculture personnel expended **56,216.8** hours performing pesticide enforcement activities in the county's Pesticide Regulatory Program (PRP). One deputy agricultural commissioner, one investigator, 31 licensed staff, two systems and procedures analysts, two office assistants, two and one half data entry operators and two extra-help personnel support the Fresno County PRP.

#### **ORGANIZATION**

The Fresno County Department of Agriculture is organized in a division/district arrangement.

##### **Districts:**

The County is currently divided into 7 geographical regions known as "districts." In each district there is an office staffed with a Supervising Agricultural/Standards Specialist and from one to four Agricultural/Standards Specialists. Each office is responsible for all of the regulatory activities within their geographic boundaries with the exception of weights and measures and apiary functions. The Supervising Agricultural/Standards Specialist is responsible for assignment of staff within the district to the various departmental functions. For the pesticide regulatory program (PRP) area, district staff conducts all pesticide pre-application inspections, use monitoring inspections, audits, investigate complaints, reports of loss and some pesticide illness investigations. All but one district office also reviews Restricted Materials Permit (RMP) applications, issues or denies restricted material permits with permit conditions, issues Operator Identification Numbers (OIN).

##### **Divisions:**

The main office located in Fresno is staffed with personnel assigned to specific program functions. For each program function there is a Supervising Agricultural/Standards Specialist and a staff of Agricultural/Standards Specialists responsible for supporting district staff when they are involved in their PRP area.

Within this function the department has the following personnel assignments:

### Deputy Agricultural Commissioner – Environmental Protection and Pest Management

The Deputy is responsible for administration of the PRP. In addition to this assignment, the Deputy is also responsible for apiary regulation and department computer operations, public speaking engagements as well as various administrative functions. The PRP Deputy is also involved in special projects such as homeland security, response to agricultural emergencies, avian influenza, glassy-winged sharpshooter treatment, and staff development and training. This Deputy also serves as a hearing officer for departmental administrative civil penalty hearings involving other divisions. Approximately one-fourth of the deputy's time is spent on PRP.

### Supervising Agricultural/Standards Specialist – Environmental Protection/Pest Management

The Supervising Agricultural/Standards Specialist supervises a staff of four Agricultural/Standards Specialists and two office assistants. This staff is responsible for permit issuance, PCO, PCA, Pilot and FLC registrations, compiling Report 5, research authorizations, use report review, continuing education classes and various public speaking events. This supervisor oversees staff that is responsible for maintenance of all permit/OIN, use report, NOI, registration and other PRP records. This group is also responsible for administering private applicator certificate and structural applicator licensing exams. One hundred percent of this staff time is dedicated to PRP functions.

### Investigator

The Investigator supervises one Agricultural/Standards Specialist. The Investigator and staff are responsible for conducting most pesticide illness investigations. The Investigator coordinates all other investigations while assisting district staff. The Investigator prepares all enforcement actions and serves as the advocate during any administrative civil penalty hearings. The Investigator maintains all files of investigations completed. The Investigator also serves these same functions for other divisions of the department. 70% of the Investigator's time is devoted to PRP. 100% percent of the Agricultural/Standards Specialist supervised by the Investigator is devoted to PRP functions.

### Supervising Agricultural/Standards Specialist – Fresno Area

This Supervising Agricultural/Standards Specialist supervises two Agricultural/Standards Specialists. This group is responsible for field enforcement of pesticide activities in the Fresno Metropolitan Area, respond to all complaints and perform all pesticide illness investigations within this geographic area. This individual is also responsible for apiary regulatory activities county wide, and the Glassy-winged Sharpshooter Treatment Program. Approximately 60 percent of the supervisor's time – 60 percent of one Agricultural/Standards Specialist's time and 90 percent of the other Agricultural/Standards Specialists time – is devoted to PRP activities.

### Computer Coordinator (Systems and Procedures Analyst)

The Computer Coordinator supervises a staff of 2.5 full-time data entry operators and two extra-help data entry operators (devoted to digitizing maps of RMP's and OIN's). The computer coordinator is responsible for data entry of all pesticide use reports and supporting the restricted materials management system (RMMS). This position also responds to public

records requests for computer data and information required by other divisions and coordinates electronic submission of use reports. The department is also striving toward digitizing all sites related to RMP's and OIN's.

### Systems and Procedures Analyst

A second Systems and Procedures Analyst is responsible for programming and data entry of all inspections. Reports generated by this data are used by the Investigator and Deputy for compliance monitoring. The Supervising Agricultural/Standards Specialist uses this data for preparation of Report 5. This position also responds to public records requests for computer data and information required by other divisions. Forty percent of the Systems and Procedures Analyst is devoted to the PUE program.

## **2006/2007 CORE ENFORCEMENT PROGRAM**

### **A. Restricted Materials Permitting**

#### **Permit Evaluation-Process Evaluation and Improvement Planning**

##### **Permit Evaluation**

Restricted Materials Permits (RMP's) are issued to the operator of the property to be treated. They are signed by the permittee or authorized representative (3CCR Section 6420). They are site and time specific. They are issued for a period of up to three years for perennial crops and one year for annual crops. RMP's are issued using the *Restricted Materials Management System* (RMMS) and are issued on an approved form. Pest Control Advisors (PCAs) and growers indicate they have considered feasible, reasonable, and effective mitigation measures when using pesticides that require permits. Permit applications are documented on an approved form with all applicable required information (3CCR, Section 6428) and are completed by certified staff. Non-ag permit applications are documented on an approved form with all applicable required information (Section 6430) and completed by licensed staff. Permits are evaluated to determine if a substantial adverse environmental impact may result at the time of issuance or when the notice of intent is received. All required *sensitive site* locations are indicated on maps included in the permit application. These maps indicate locations of environmentally-sensitive areas. Permit maps are compared to a master map of environmentally-sensitive areas and evaluated for possible adverse environmental impact. Feasible alternatives to restricted pesticides are considered and implemented when appropriate. A permit or NOI is denied or conditioned recognizing and utilizing appropriate mitigation measures. Appropriate mitigation considerations include knowledge of local conditions, pest management guidelines, restricted material hazard chart, local permit conditions using California Code of Regulations (including Sections 6443 and 6450 through 6489).

Permits indicate the name of the certified private or commercial applicator responsible for the supervision of the application of restricted materials named on the permit. Fresno County Department of Agriculture has implemented a policy (effective since 2001) that anyone applying for a RMP or to take a Private Applicator Certificate (PAC) exam, must present a valid picture identification card to verify their person before being issued the above. For private applicators, staff verifies that the certificate presented is current. Staff renews certificates based on completion of adequate hours of continuing education or the successful completion of the private applicator examination. Staff provides adequate opportunity for

continuing education. The provision of continuing education for private applicators is essential in assuring that private applicators are adequately qualified to supervise the use of restricted materials. In addition, staff provides presentations to other providers of continuing education.

## **Goals**

Improve identification of sensitive sites as identified in Food and Agriculture Code 14006.5 through the use of ArcView 3.2.

The intent is to greatly enhance the accuracy of maps affiliated with RMP's to ensure appropriate sensitive sites are indicated and readily identifiable. Hiring an individual trained to perform this task is critical to ensuring that this project which has begun is finished and maintained.

Continue to reduce the number of RMP's issued and reduce the number of restricted materials indicated on RMP's.

## **Site Monitoring**

The NOI (Section 6434) is recorded on appropriate form and includes required information (Section 6434) including, but not limited to: Date of intended application, site and permit number, method of application including dilution, volume per acre, dosage, name of pest control business (if applied by a PCB) and the operator of the property that is using the pesticide. The NOIs can be faxed in, deposited in one of 40 drop boxes placed throughout the county, submitted in person, or submitted via the CEDTS or other authorized programs. Notices received in a district other than the district of intended application are forwarded to the appropriate district via fax. The NOI is submitted at least 24 hours prior to start of application by the appropriate person. NOIs submitted with less than 24-hour notice are approved if the commissioner determines, due to the nature of commodity or pest problem, effective control cannot be obtained if the application is delayed or that 24 hours are not necessary to adequately evaluate the intended application. All requests for waiver of the 24-hour requirement come in via telephone and are considered on a case-by-case basis in consultation with the district enforcement staff. For metam sodium a 96-hour NOI is required so as to give staff adequate time to check all sensitive applications.

Licensed staff monitor permits are required in Section 6436. A minimum of five percent of the sites identified in permits or NOIs are monitored. Monitoring will include evaluation of the basis for the intended application (including toxicity of material), environmental concerns (i.e., endangered species, buffer zone areas, ground water protection areas, problem areas identified from previous years, Section 18 registrations, and the written recommendation. All non-ag permit holder applications are inspected once a year.

## **RESOURCES**

**County Resources** – In FY 2004/2005, Fresno County had approximately 11.6 licensed positions devoted to the restricted materials permit and site monitoring workload, resulting in a total of 20,912 licensed person hours.

It is anticipated that the Fresno County Agricultural Commissioner will require permits for the use of contact and systemic herbicides on the Westside of the county in 2006. This will require the addition of these materials to Westside permits and create possibly 2,000 additional NOIs.

- Workload expectations for FY 2006/2007 include: 750 operator IDs, 4,000 restricted materials permits, and 16,000 NOIs.

Permit Guidance – Only Agricultural/Standards Specialists licensed by the state may issue permits. Training to issue permits is performed on several levels. The DPR Liaison reviews permits during the evaluation process for inaccuracies and areas in need of improvement. The Deputy Agricultural Commissioner addresses these inaccuracies during training sessions, staff meetings and individually. The Deputy Agricultural Commissioner and Supervising Agricultural/Standards Specialists train Agricultural/Standards Specialists using established procedures, forms and documents prepared by both state and county.

Corrective Actions – Deficiencies documented in the previous effectiveness evaluations indicated a failure in some cases to conduct an annual evaluation of the pesticide use of non-agricultural permittees. A permit condition has been included for all non-agricultural permittees requiring them to contact the department prior to their first scheduled use of restricted materials to schedule an inspection. Further, there is a need to improve the quality of maps associated with permits. Resources permitting, the department intends to expand its use of GIS to: 1) Continue building and maintain a crop data layer in GIS and, 2) begin to include GIS-based maps in 2007 restricted material permits.

## **Goals and Objectives**

Fresno County is committed to continue its practice of issuing high quality, accurate and appropriate restricted materials permits.

## **Deliverables**

- Follow laws, regulations and DPR guidelines
- Issue permits
- Evaluate all permits for adverse environmental impacts
- Approve, deny, condition permits as necessary
- Record and evaluate NOIs
- Review permits for completeness and accuracy
- Address problem areas with training, timelines and follow-up reviews

## **Measure of Success**

- Annually evaluate permitting process for deficiencies
- Review permits, non-compliances, Report 5 data, discuss with licensed staff and DPR Enforcement Branch Liaison (EBL).

- Develop a plan of action to address identified deficiencies or areas of concern identified through external (DPR) or internal program review.

## **Pesticide Site Monitoring Plan Development**

### **Goals and Objectives**

Fresno County is committed to continue to ensure a site monitoring plan that takes into consideration pesticide hazards, local conditions, weather patterns, cropping and field work patterns, and compliance histories.

### **Deliverables**

Pre-application site inspections totaling at least five percent of NOIs received. To the extent possible, review all NOIs and compare to permit to confirm that permit and NOI are accurate.

Prioritize selections of NOI for pre-application evaluation to:

1. Maximize attention to materials of concern.
  - A. Fumigants
  - B. Section 18 materials
  - C. Any other materials designated by DPR
2. Maximize attention to areas of concern.
  - A. Application near sensitive sites such as schools, hospitals, labor camps, residential areas and other areas designated by the commissioner.
  - B. Application of materials near environmentally-sensitive sites such as rivers, lakes, streams, and endangered species habitat.
  - C. Application of herbicides and defoliants near sensitive crops
3. Avoid multiple inspections of applicators with good compliance history.
4. Maximize attention to those applicators rarely inspected.
5. Follow-up any non-compliance to assure future compliance.

### **Measure of Success**

1. Attainment of five percent goal of pre-application evaluations
2. High percentage of inspections for areas and materials of concern
3. Effective follow-up or violations enhancing the opportunity for future compliance.

## **B. COMPLIANCE MONITORING**

### **Comprehensive Inspection Plan**

Analysis of our inspection activities during the 2003/2004 fiscal year shows that there was an overall 1.5 percent non-compliance rate for use monitoring inspections. Property operator inspections had non-compliance rate of 1.8 percent, while pest control businesses had a 1.1 percent non-compliance rate. Overall there were 591 non-compliances noted while observing 39,804 inspection requirements during 2,352 inspections.

The current compliance monitoring program strengths are:

1. Enforcement districts are assigned to Agricultural/Standards Specialists allowing them to become intimately familiar with pesticide usage, cropping patterns and growers, PCBs, PCAs and dealers in those areas.
2. Permits are issued in each district by local staff. Notices of intent are delivered to the district where the application will take place. District staff are able to apply their local knowledge gained through years of experience to prioritize inspections and apply appropriate conditions.
3. Increased compliance monitoring activities at sites near areas identified to be environmentally sensitive such as schools, daycare centers, wildlife areas, waterways and sensitive crops.
4. A quarterly review of inspection and non-compliance data effectively identifying non-compliances during the year.

Areas identified as needing improvement are:

1. Since district Agricultural/Standards Specialists are responsible for all departmental functions within a geographical area, workload peaks in other program areas prevent continuous pesticide enforcement activities during peak load times of the year. We need to assure that other areas of responsibility that create workload do not interrupt a continuous PRP presence.
2. As all department functions become more specialized and complex it becomes increasingly difficult for staff to remain proficient in all areas of responsibility.

### **Goals/Objectives**

To increase compliance with regards to pesticide laws and regulations within Fresno County. Special focus will be placed on areas of non-compliance identified during inspections.

### **Deliverables**

1. When violations are discovered during application inspection activities, follow-up inspection will be performed to avoid continued non-compliance.
2. Make a good faith effort to continue to improve the quality of inspections and investigations performed.

Based on our inspection program evaluation the following inspection goals were determined:

#### **I. PESTICIDE USE MONITORING INSPECTIONS**

A. Pre - application	5% (minimum) (15,000 received in 04/05)
B. Applications - Property Operator	550
Applications - PCO	200
C. Field Fumigation	70
D. Commodity Fumigation	100
E. Field Worker Safety	100
F. Mix/Load - Property Operator	175
Mix/Load - Pest Control Business	100

II. PEST CONTROL RECORDS INSPECTIONS	
A. Business Records	25
B. Business HQ/Employee Safety	25
C. Dealer Records	10
D. Advisor Records	40
E. HQ/Employee Safety - Grower	75
F. HQ/Employee Safety - Qualified Applicator	10
III. STRUCTURAL PEST CONTROL INSPECTIONS	
A. Fumigations – Branch 1	150
B. Applications – Branch 2	40
Applications – Branch 3	10
C. Mix/Loads – Branch 2	10
D. HQ/Employee Safety/Business Records	10
E. Business Records	10

Though these goals are attainable, multiple factors can influence whether or not they are attained. Complaint and illness investigations take priority over routine inspection activities. Should there be any increase in investigations, the number of compliance monitoring inspections will decrease. Unanticipated workload in other departmental program areas, such as a new pest of quarantine significance, or any change in phytosanitary export requirements may also affect staff availability to conduct compliance monitoring inspections. The department currently has three unfilled permanent positions. It is anticipated that during the 2006/2007 fiscal year that additional retirements will occur. All of this affects our ability to meet inspection goals. Our emphasis this year will be to concentrate on the quality of inspections and investigations conducted and proper follow-up. Staff training in investigative techniques and report writing will be arranged with our Enforcement Branch Liaison (EBL). Department management and DPR liaison will continue to identify staff training needs and conduct training to enhance program quality as time permits.

To address the problem of staff unavailability due to competing demands for services the following will be implemented:

Each district supervisor will prepare a plan as to how they intend to address PRP workload within the bounds of their district. This plan will:

1. Give a summary of the annual cycle of pesticide use activities within the district.
3. Identify how personnel will be allocated to address PRP activities when:
  - a. Competing workload inhibits routine PRP activities
  - b. Address PRP workload needs during off-hours

In addition, each supervisor is required to notify the Deputy responsible for the PRP in the event that competing workload prevents staff from conducting PRP inspection work. The deputy will then attempt to re-direct resources from other districts or assign division staff to cover the PRP workload in that impacted district.

### **Measure Success**

Although the overall program goal is to increase compliance with pesticide laws and regulations, the number of non-compliances noted can't be used as a measure of success. As the department strives to improve the quality of inspections completed, the number of non-compliances noted may, in fact, increase. Success should be measured by our commitment to improve program process and improve compliance on a case-by-case basis. Improved compliance through proper follow-up, education and appropriate enforcement and



compliance actions with individual property operators and pest control businesses will be our measure of success.

## **Investigation Response and Reporting**

### **Goal**

Thoroughly investigate every pesticide-related incident within our jurisdiction and complete the investigation in a timely manner with accurate and supportive information.

### **Resources**

The department has one full-time Agricultural Investigator and one full-time Agricultural/Standards Specialist devoted to investigations. All illness investigations outside of the Fresno metropolitan area are conducted by the Investigator and staff. Crop loss, non-illness complaints, pesticide illness within the Fresno district, and other investigations are conducted by the district staff in the district where the incident took place. All staff that may have to conduct an investigation has been trained in investigative techniques and report writing. All completed investigations are reviewed by the Investigator and/or the Deputy Agricultural Commissioner. All illness investigations are completed within 120 days.

In 2003/2004 our office conducted 30 investigations, of which one met priority criteria. Of these investigations 29 were human effects investigations and one was a crop loss priority investigation.

The Investigator is also responsible for maintenance of the complaint log. The complaint log is forwarded to the Deputy monthly, who in turn, forwards the log on to the liaison.

## **C. ENFORCEMENT RESPONSE**

### **Goal/Objective**

A commitment to fairly and consistently apply the enforcement guidelines to incidents where violations of pesticide laws and regulations are confirmed and documented.

### **Enforcement Response Evaluation**

The results of all inspections are entered into a database maintained by the department. In addition, all notices of violation are also entered into a database. As a backup all inspections with non-compliances are copied and forwarded to the Investigator. On a quarterly basis, taking into account all non-compliances noted during inspections, illness and other investigations and notices of warning and/or violations, the Investigator conducts a review and analysis. All non-compliances noted in the last 27 months are categorized and evaluated in accordance with the enforcement guidelines. Where warranted, the Investigator either prepares a decision report or develops a draft notice of proposed action (NOPA) and presents it to the Deputy for review. If an ACP is warranted, the fine amount is determined utilizing Section 6130 of the California Code of Regulations. If the Commissioner concurs, appropriate enforcement action is taken. In the event a hearing is requested pursuant to the NOPA, the Investigator serves as the Commissioner's advocate and presents the case to the hearing officer. The commissioner will also consider referral to the district attorney when appropriate.

## **Deliverables**

Continue to apply enforcement guidelines to non-compliances noted and take appropriate enforcement or compliance action within applicable statutes of limitation.

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